

(iii) Committed a clear and prejudicial error concerning a substantial factual matter.

(d) *Opposition.* A party may file with the Authority an opposition to an application for review within ten (10) days after the party is served with the application. The opposing party must serve a copy on the Regional Director and all other parties, and must also file a statement of service with the Authority.

(e) *Regional Director Decision and Order becomes the Authority's action.* A Decision and Order of a Regional Director becomes the action of the Authority when:

(1) No party files an application for review with the Authority within sixty (60) days after the date of the Regional Director's Decision and Order; or

(2) A party files a timely application for review with the Authority and the Authority does not undertake to grant review of the Regional Director's Decision and Order within sixty (60) days of the filing of the application; or

(3) The Authority denies an application for review of the Regional Director's Decision and Order.

(f) *Authority grant of review and stay.* The Authority may rule on the issue(s) in an application for review in its order granting the application for review. Neither filing nor granting an application for review will stay any action ordered by the Regional Director unless specifically ordered by the Authority.

(g) *Briefs if review is granted.* If the Authority does not rule on the issue(s) in the application for review in its order granting review, the Authority may, in its discretion, give the parties an opportunity to file briefs. The briefs will be limited to the issue(s) referenced in the Authority's order granting review.

§ 2422.32 When does a Regional Director issue a certification or a revocation of certification?

(a) *Certifications.* The Regional Director issues an appropriate certification when:

(1) After an election, runoff, or rerun,

(i) No party files an objection or challenged ballots are not determinative, or

(ii) The Region decides and resolves objections and determinative challenged ballots; or

(2) The Regional Director issues a Decision and Order requiring a certification and the Decision and Order becomes the action of the Authority under § 2422.31(e) or the Authority directs the issuance of a certification.

(b) *Revocations.* Without prejudice to any rights and obligations that may exist under the Statute, the Regional Director revokes a recognition or certification, as appropriate, and provides a written statement of reasons when:

(1) An incumbent exclusive representative files, during a representation proceeding, a disclaimer of any representational interest in the unit; or

(2) Due to a substantial change in the character and scope of the unit, the unit is no longer appropriate and an election is not warranted.

§ 2422.33 Relief under part 2423 of this chapter.

Remedial relief that was or could have been obtained as a result of a motion, objection, or challenge filed or raised under this subpart, may not be the basis for similar relief under part 2423 of this chapter: But related matters may be consolidated for hearing as noted in § 2422.27(d) of this subpart.

§ 2422.34 What are the parties' rights and obligations when a representation proceeding is pending?

(a) *Existing recognitions, agreements, and obligations under the Statute.* When a representation proceeding is pending, parties must maintain existing recognitions, follow the terms and conditions of existing collective bargaining agreements, and fulfill all other representational and bargaining responsibilities under the Statute.

(b) *Unit status of individual employees.* A party may take action based on its position regarding the bargaining unit status of individual employees, under 3 U.S.C. 431(d)(2), 5 U.S.C. 7103(a)(2), and 7112(b) and (c). But its actions may be challenged, reviewed, and remedied where appropriate.